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A PLAIN STATEMENT

OF

THE GROUNDS ON WHICH IT IS CONTENTED,

THAT

MARRIAGE

WITHIN THE PROHIBITED DEGREES

IS

FORBIDDEN IN SCRIPTURE.

BY

HUGH BENNETT, M.A.

FELLOW OF WORCESTER COLLEGE, OXFORD,
AND CURATE OF LYME REGIS, DORSET.

"Some persons contend, that these marriages are forbidden expressly, or inferentially, by Scripture. If this opinion be admitted, cadit quæstio."

Report of Commissioners on the Law of Marriage, page ix.

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A

PLAIN STATEMENT,

&c.

IT is now well known that many persons are greatly interested in obtaining an alteration of the present law. In pursuit of this object, they have spared neither labour nor expense. Under the guidance of an able legal Firm, every effort has been used to create favour towards the proposed alteration. Pamphlets have been written and circulated; barristers and law-students have been engaged in searching out cases in which the law has been transgressed; petitions to Parliament have been prepared, and signatures to them diligently, even importunately, solicited. It was through their endeavours that the recent parliamentary inquiry was set on foot: and no sooner did the Commission meet, than a large mass of evidence on their side of the question, which had been previously collected with great

care, was brought before it. On the other side, very few witnesses were examined¹, (five only, to thirty-five in favour of the alteration,) and on the strength of the Report, founded chiefly on this evidence, notice has been given for the introduction of a Bill in the next session of Parliament, having for its object the repeal of the statute law of England, so far as it prohibits marriage between a man and the sister of his deceased wife.

Under these circumstances, it is plainly a time for those who feel strongly the duty as well as expediency of maintaining the existing law, foreseeing the many miserable evils which are likely to follow on its repeal, no longer to keep silence. It is the peculiar duty of the clergy to set forth the doctrine

¹ The number of persons who appeared personally before the Commissioners was *forty-one*. Of these, *thirty-five* gave evidence in favour of marriage being allowed with a deceased wife's sister; *five*, in opposition to it; and *one* (viz. the Lord Advocate, one of the Commissioners) did not expressly state his opinion. Of the *thirty-five* in favour of this alteration of the Law, *fifteen* were persons interested, on personal grounds, in obtaining such a result, being such as had already married within the prohibited degrees, or were anxious to do so, or had some near relative so married. *Ten* others were barristers and law-students, who had been employed professionally, under Messrs. Crowder and Maynard, in getting up the case. Of the remaining *ten*, *five only* were members of the Church of England, being, I regret to say, clergymen. The *five* witnesses who alone were examined on the other side, were all clergy of the Church of England, of high standing.

of the Church, and the grounds on which it rests; and it is the duty both of clergy and laity,—in other words, of the whole Church,—to use their most strenuous exertions to counteract the designs of the zealous and energetic party who are intent on obtaining the alteration. The Commissioners admit, that they believe “the prevalent *feeling*,” both of clergy and laity of the United Kingdom, “is against these marriages.” If a careful consideration of the subject can be generally promoted, and the minds of persons are not left merely to be swayed by the arguments and the energy displayed on one side alone, it may, with good reason, be expected that this “strong,” though, perhaps, at present “*ague*² *feeling of dislike and disapprobation*,” will be exchanged for a still stronger and intelligent conviction of the absolute unlawfulness, as well as of the extreme inexpediency, of permitting such marriages as those now desired to be allowed.

My object in these pages is to show the grounds on which it is contended that the marriages prohibited by the existing law are forbidden in Holy Scripture, and that *the law cannot be relaxed in any one degree, without altogether giving up the principle on which the whole law entirely depends*. The objections, *on social grounds*, to the proposed alteration, are both numerous and weighty; my own belief is, that they have been hitherto rather understated, and have had

² See Report, pages vii.—x.

less than their due importance attached to them, even by those who have alleged them as a just ground of opposition. But I do not intend here to enter into their discussion, not only because the subject is revolting, but also for the same reason which has weighed with others who have taken a part on the same side, *viz.* that, after all, *the great* evil is the setting aside the law of God. If it be made out that the proposed measure does this, happily there is yet faith enough in these kingdoms to believe that pernicious consequences *must* follow, without the particular ways being pointed out in which they may be expected. If the people are roused to the conviction, that the attempt now being made is to sanction by the laws of England marriages which are forbidden in Holy Scripture, they will require no other inducement to make them offer it their most determined and zealous opposition. Under this impression, I leave the discussion of the question on the grounds of social expediency, at all events, to another time, or another hand.

I. The statute law affecting these marriages dates from the time of the Reformation, and is in conformity with the canons of the Church of England. The degrees within which marriage is held to be prohibited by it, are those mentioned in the Table annexed to the Book of Common Prayer, usually called "Archbishop Parker's Table³," which is directed

³ See Appendix, No. 1.

by the ninety-ninth canon to be set up publicly in every church. The title prefixed to this Table is this, "A Table of Kindred and Affinity, wherein whosoever are related are forbidden *in Scripture and our laws* to marry together." My concern, then, at present, is simply to prove the truth of this statement. About one part of it there can be no dispute. The Court of Queen's Bench has decided unanimously, that such marriages are now forbidden in "*our laws*," *i. e.* by the existing laws both of the Church and of the State of England. But the other part of the same statement involves the whole question in dispute. It is here asserted, that the same marriages are also forbidden "*in Scripture*." And lest there should be any doubt whether this title is of much authority, as expressing the judgment of the Church of England on the point, the same thing is expressly declared in the canon now in force on this subject, "No person shall marry within the degrees *prohibited by the laws of God*, and *expressed* in a Table set forth by authority, in the year of our Lord God, 1563⁴."

It is well known that, at the time of the Reformation, the subject of these degrees, and especially the case of marriage with a brother's wife, underwent a full and searching investigation, in consequence of the circumstances attending the divorce of Henry VIII. from his first wife. The Church of

⁴ Canon 99, A.D. 1603, see Appendix, No. 2.

England then declared,—in opposition to the corrupt practice which had then just begun to prevail in the Roman Church⁵, and in accordance with the testimony of the Catholic Church in all previous ages of Christianity,—that these degrees were forbidden by the *Divine Law*, and consequently could not be dispensed with by the Pope, or any other authority, ecclesiastical or civil. To this judgment she has ever adhered. It is important to observe that the Church of England does not now profess, and never has professed, to forbid marriage within any of these degrees merely on her own authority, but on the authority of Scripture.

In the fulfilment of her office as a “witness and a keeper of Holy Writ⁶,” the Church has declared in what sense, and to what extent, she interprets the precepts of Holy Scripture relating to this matter; and her laws, and those of the civil power in England in this behalf, have been hitherto directed only to the setting forth and enforcing the laws of God. There has been no merely arbitrary prohibition; no degree has been inserted in the Table on any supposed grounds of social or political expediency.

⁵ Only one case is recorded before that of Henry VIII., in which the Pope claimed the power of dispensing within degrees so near as that of a brother's wife, and that was a very few years before.—See Commissioners' Report, Minutes of Evidence, Question 464.

⁶ See Article xx.

The Table was set forth by authority to *express*, as the canon declares, those degrees, and those only, which are "prohibited by the laws of God." To those who would rather trust to the judgment of the Church, than to that of private men, in the interpretation of Scripture, this testimony alone will have no inconsiderable weight. I especially commend the canon to the consideration of the clergy. Let them approach this question with the knowledge that it is one on which the Church of England has not spoken *in her own name alone*, but that she has borne witness to the fact, that God has spoken, and that these marriages are forbidden by His law. On this, and no lower ground, the Table of Degrees, and the canon respecting it, are placed. On this ground, therefore, it is our duty to maintain it.

But I proceed now to the grounds on which this judgment of the Church is founded.

The passage of Scripture, upon which the Table of Degrees is chiefly based, is the eighteenth chapter of Leviticus.

II. Here the first question which meets us is, whether the precepts contained in this chapter are binding on Christians; in other words, whether they belong to the Moral Law, or only to the Ceremonial, or Political Law of the Jews⁷.

⁷ See Article vii.

(1.) To determine this question, first, let my readers refer to the passage itself. It will be obvious to any one who reads it, that the whole chapter is in contrast with *heathen* practices;—those of Egypt and Canaan, God relates⁸ in the beginning of it that there were certain “doings” of the land of Egypt, which the Israelites had just left, and of the land of Canaan, whither they were going, after which they should not do: “After *their* doings shall ye not do; neither shall ye walk in *their* ordinances;” but “ye shall do *My* judgments, and keep Mine ordinances,” “and *My* statutes,” “which if a man do, he shall live in them: I am the Lord.” After this preamble, (so to speak,) the Divine Law on the subject follows, forming the main body of the chapter, to which is appended the solemn admonition, “Defile not ye yourselves in any of these things: for in all these things the nations are defiled which I cast out before you⁹.” Now if the practices forbidden in these precepts were accounted sins, when done by the *heathen*, and drew down God’s wrath on *them*, it is plain that the prohibitions belong to that law which is binding on all nations, *i. e.* the Moral, and not the Ceremonial, or Judicial Laws, which were intended for the Jews alone.

(2.) Another argument may be drawn from the words which God here uses to denote the nature of

⁸ See ver. 3—5.

⁹ See ver. 24—30.

the sins forbidden. They are called (and the words are emphatically repeated in successive verses) "*de-filements*," and "*abominations* ; and they are spoken of as *defiling the land* in which they were committed. Expressions so strong, and such as these, would not have been applied to the transgressions of merely ceremonial precepts.

(3.) It may be noted, also, that these Laws are given separately from the Judicial Laws on the same subject. In Levit. xviii. these things are laid down simply as *things not to be done*. What related to the Judicial Law of the Jewish people, seems to be recorded in another place, (*viz.* in the twentieth chapter¹), where the same degrees are mentioned again, with special penalties annexed to intermarriage within them.

(4.) Again: let those who contend that the law of marriage, which God has given in Scripture, belongs only to the Ceremonial or Political Law, say in what light they regard the sacred ordinance of marriage itself. Are they prepared to consider this as a merely civil, or ceremonial institution? If not, let them beware of relaxing on this plea the restrictions with which God has fenced it round, lest they insensibly lower their own and other men's views of the holiness of the state of matrimony itself.

¹ See Levit. xx. 21.

(5.) I may add further, that it would be contrary to the analogy of all the other dealings of God with men on this subject to suppose that more licence is given to Christians than was to the Jews. The constant course of God's dealings, from the beginning of the world, has been gradually to increase the restrictions on marriage, and so to draw the bond closer, and render the union more holy in the eyes of men, by the fences placed around it. The Creator made it necessary, in the first generation after Adam, that brothers should marry their sisters. Abraham, for whatever cause, was permitted to marry his niece, if not his half-sister. Jacob married two sisters at once; Jochabed, the mother of Moses and Aaron, was aunt to her husband. By the law which God gave to Moses, the licence formerly permitted in these and other instances was abridged. But polygamy was still practised, of which David and Solomon afford sufficient examples; and divorces "for every cause" were yet allowed to the Jews by the Law itself, "for the hardness of their hearts²;" but by the Gospel of Christ the licence in these respects was restrained. Polygamy became unlawful for Christians, and divorce was restricted to the cause of fornication alone. It would appear, therefore, to have been the uniform tenor of God's dealings with

² See Matt. xix. 8, 9.

men, under each successive dispensation, to lay increased restrictions on the licence of marriage. And as the Christian Church was intended to be the home of a higher degree of purity, than found shelter either in the Jewish or Patriarchal Church, it would be contrary to all the revealed designs of God to suppose that what was forbidden to the Jews in these respects is allowed to Christians. So strongly did the Church in the early ages of Christianity feel the force of this, that they, we know, did, whether wisely or not, increase the restrictions on marriage amongst themselves to a much wider extent, even than the law of God in Scripture obliged them.

(6.) Lastly, these laws were considered, as well by the ancient Jewish authorities, as by the general consent of the Christian Church, to be not confined to the Jews alone, but to be intended for heathens and Christians also ³.

It is hoped that enough has now been said to establish beyond a doubt, that the prohibitions in the 18th chapter of Leviticus are binding on mankind universally as part of the moral law of God.

III. The next question to be considered is, whether marriage, within all the degrees contained

³ See Questions 439, 470, and 471, p. 45, in Report of Commissioners. See also Hammond on this point, vol. i. of his works.

in our Table, is virtually forbidden in this 18th chapter of Leviticus. The chapter has been universally understood of *marriage*. Indeed, it is impossible to suppose that the prohibitions contained in it are directed solely against sinning in these instances without marriage. If that were the only meaning of them, we must admit that marriage would make such unions lawful, *e. g.* those of the nearest relatives. Marriage would be no more forbidden with a mother or sister than with a brother's wife. But since this cannot be admitted, it is evident that the words must be taken in a wider sense than this—*viz.* as forbidding *all* connexions between persons related in these degrees, whether sanctioned by marriage or not. The prohibitions are grounded, not on the absence of marriage, but *on the nearness of kin*. The sin forbidden is the sin, not of fornication, or of adultery, but of *incest*. The 6th verse, which stands at the head of God's statutes on this matter, at once enunciates the *principle* on which all these prohibitions rest, and declares the law, of which the following verses contain particular instances;—“None of you shall approach to any that is *near of kin* to him;” “I am the Lord.”

Here, then, we find a law, expressed in general terms, which directly forbids any who are “near of kin” to marry together. Our question, therefore, is now brought to this,—What is meant by that “nearness of kin” here spoken of, and how far does

it extend? If it can be shown that "*nearness of kin*," according to the intention of this law of God, includes every degree of relationship set forth in the Table, then it must be admitted that this law obliges persons so related together in every case, "not to approach" each other; in other words, "that whosoever are related within these degrees are forbidden in Scripture" "to marry together."

(1.) Now, first, it will not be disputed that the "*nearness of kin*," which is the foundation of these prohibitions, must be supposed to reach through all those cases enumerated in the following verses⁴; and as we find amongst these, the instances of a son's wife, a brother's wife, a father's brother's wife, and a wife's daughter and granddaughter, it is evident that the "*nearness of kin*" here spoken of must be taken to include cases of *affinity* as well as of consanguinity, and of these, some that are quite as remote in degree as any instances of consanguinity to which it is extended⁵.

(2.) Secondly, it cannot be denied that there are some degrees of nearness of kin not expressly mentioned in these verses, within which it is impossible to suppose that marriage was intended to be permitted, *e.g.* a grandmother, and a daughter. The principle,

⁴ Ver. 14—17.

⁵ The only case of the kind alluded to in the New Testament is one of affinity, not consanguinity. 1 Cor. v. 1.

then, will not hold good in this case, that whatever is not specifically forbidden is permitted. It is necessary to think that some more instances are comprehended under the general prohibition in ver. 6, besides those enumerated in the following verses. If it be asked, To what purpose then are these particular prohibitions introduced, if they are not to be considered as expressing every degree designed to be forbidden? the answer is, that one great use of them is to afford sufficient *instances* by means of which it might be ascertained how far that prohibited nearness of kin extended, and what other degrees were included under the same law. Indeed, it might with more reason be asked, If these verses were intended to enumerate every single degree that was forbidden, to what purpose is that solemn, general prohibition given in the 6th verse? The terms in which this is expressed, evidently imply that it is not to be limited in its application to certain special instances, arbitrarily selected, out of many others exactly similar in nature and degree, which is the case, as far as we can see, with the degrees enumerated in the remainder of the chapter.

(3.) But how, then, are we to know the *extent* of the application here contended for? How must we ascertain what those other instances are which are prohibited by virtue of verse 6, and yet are not expressed in the following verses? It is necessary and easy to suppose that a daughter and a grand-

mother are included,—but what others? One simple rule of interpretation will remove every difficulty. *Whatever instances are exactly equal, or parallel, to those mentioned in the chapter, are to be esteemed as falling under the same prohibition.*

Wherever there is the same nearness of kin between a man and a woman that there is in some other instance which is directly prohibited, there it must be held that marriage is forbidden by virtue of that law which says, "None of you shall approach to *any* that is *near of kin* to him." Thus the nearness of kin existing between a father and daughter is exactly the same as that between a son and his mother, who are forbidden to marry in verse 7, and that between a man and his grandmother is the same as that between a man and his granddaughter, who are forbidden to marry in verse 10; therefore, these also, though not expressly mentioned, are assuredly amongst those "near of kin," who are forbidden to "approach" each other.

We have, then, arrived at this result, that the "nearness of kin" which, according to the intention of God's law, is a bar to marriage, includes not only whatever is found *specifically* mentioned in the following verses of the same chapter, but whatever is *equal or parallel* to the instances therein given.

(4.) It only remains to be said, that every degree expressed in the *Table* is included under one or other of these two classes. There is not one degree pro-

hibited in our laws at present which is not either explicitly mentioned in the 18th of Leviticus, or exactly equal to one that is there mentioned. The conclusion, therefore, is inevitable, that the relationship existing in each of these degrees is within the meaning of that "nearness of kin" which, according to God's law in Leviticus xviii. 6, is a bar to marriage.

(5.) It seems scarcely necessary to say more—this rule of parity of reason, or of relationship, on which the Church of England has proceeded in interpreting this chapter, and in constructing her Table of Degrees upon it, is almost self-evident. Without it no consistent interpretation of these laws can be arrived at. For no reason can be given why marriage with a father's brother's wife should be forbidden⁶, which does not apply equally to a mother's brother's wife, which is not mentioned. No ground can be alleged for the exclusion of those instances of daughter and grandmother (some of the nearest degrees of consanguinity) to which I have before referred. Nor can any principle be discovered on which some degrees of affinity are omitted, which are nearer than others that are specifically mentioned, *e. g.* a wife's sister, which is as near as a brother's wife, or a wife's granddaughter, and *nearer* than a father's brother's wife. On the other hand,

⁶ See ver. 14.

if this rule be adopted, all inconsistency is at an end. We learn to regard the chapter as forbidding *all* nearness of kin, and illustrating its meaning by some particular instances. The rule itself is found in its application to involve no more than two recognized principles of God's word, which are attested both by the general tenor and express declarations of Holy Scripture;—1st, That man and wife are, by God's ordinance, made "*one flesh*"; whence it follows, that whoever is related to one by consanguinity, is to be accounted as related in the same degree to the other by affinity: and 2nd, That purity and incest are the same in both sexes'; whence it follows, that whatever prohibitions are made to a *man* in these laws, are to be understood as extending to a *woman* in the like case, and vice versa. And the Table of Degrees, which is constructed on the eighteenth of Leviticus, interpreted by this rule, is seen to contain a reasonable and perfectly consistent law, all the parts of which are in harmony with each other, and rest on one intelligible principle, *viz.* that the "*nearness of kin*" (which, in the intention of God's word, is a bar to a lawful marriage) extends to every case *within the third degree*⁸.

⁷ Gal. iii. 28. "In Christ Jesus there is neither male nor female."

⁸ The method of reckoning the degrees is this:—In an ascending line, from a man to his father or mother, is one degree; to

It will be seen from this, that if the present law be relaxed, so that marriage within any *one* of the degrees now prohibited be recognized by the

his grandfather or grandmother, two ; then down to his uncle or aunt, three ; then to the daughter of his uncle or aunt, four (whence first cousins are not forbidden to marry, there being no instance in the xviiith of Leviticus of a prohibition in the fourth degree). Again, from a man to his father or mother, one ; to his brother or sister, two ; then to the daughter of his brother or sister (*i. e.* his niece), three. Again, since man and wife are "*one flesh*," from a man to his wife's father or mother, is one degree ; then to his wife's sister, two (whence in the Table, a sister, a brother's wife, and a wife's sister, stand in the same class, being all relations of the second degree) ; then to a wife's sister's daughter (*i. e.* wife's niece), *three*. (Wherefore a man is forbidden to marry his wife's niece ; and this is confirmed by the prohibition given in ver. 14, of marrying a *father's brother's wife* ; for this is a prohibition of marriage between a woman and her *husband's brother's son* ; and the relation between a *man and his wife's niece*, and between a *woman and her husband's nephew*, is exactly the same.) In like manner, the distance of any degree in the Table may be easily calculated, only remembering, when it is in an indirect line, to reckon first up to a common parent, and thence down to the person whose degree of kindred is required. It must be noted, also, that marriages in the *direct line*, *i. e.* between children and their grandfathers, though ever so distant, are held to be forbidden :—but this rests on another ground, *viz.* that a father has a paternal right over his children, and children's children, even to ten generations, if he could live to see them (his relation to them requiring respect and reverence as often increased as the name of father comes between him and them). And the same rule, it is to be thought, must hold good with respect to uncles and aunts (who are *quasi parents*), and their

State as lawful, the principle of the Levitical law, on which the whole Table hangs, will be surrendered. There will, then, be no consistency in maintaining *very many*, to say the least, of the other prohibitions. The advocates of the change confess that they have no principles to fall back upon which would justify the maintenance of any restrictions on marriage between relatives farther removed than brother and sister⁹. At present the effort is limited

grand nephews and nieces.—(See Wheatley on Com. Prayer, chap. x. sect. 3.)

⁹ One of their own pamphlets informs us that “the difficulty of discovering any precise limit, sufficiently distinct and universal, within which the prohibitions of marriage shall be confined, has been pointed out by all the most eminent jurists and divines who have written on the subject;” *i. e.* by all, of course, who have agreed to set aside the law of Scripture, as interpreted by the Church. (*Considerations on the State of the Law regarding Marriages with a deceased Wife's Sister*, by H. R. Reynolds, Jun., M.A., Barrister-at-Law, p. 41.) The same writer quotes a saying of Mr. Justice Story, the American Judge, that “Marriages between brother and sister *by blood* are deemed incestuous and void, and indeed repugnant to the first principles of social order and morality; but *beyond this*, it seems difficult to extend the prohibition *upon principle*.” The opinion of Mr. Justice Story, in favour of marriage being allowed with a deceased wife's sister, is adduced by Mr. Crowder as one of great authority (p. 21, of the Minutes of Evidence), and as such, is quoted by the Commissioners (pp. vi. vii. of the Report). It is well to know *how far* Mr. Justice Story's views in favour of relaxation extended. (See p. 52 of the Evidence.)

to obtaining a relaxation of the law in one degree of affinity. If that be gained, a door will have been opened, which it will be found impossible to close again. Other questions will be raised, which can then be no longer met on any principle. Already are there symptoms of a desire to advance another step. The next degree which will be aimed at is one of *consanguinity*—that, viz. of uncle and niece. The countries which are now held out to us as examples do sanction marriages within this degree; and when this point is gained, and men's minds have become accustomed to such licence, a desire will spring up for relaxations in other instances. The whole Table, so far as any *principle* is involved in it,—so far as it is a question of abiding by the law of God given in Scripture,—depends upon maintaining this first degree inviolate. The real point now contested, and which must be decided at the very outset, is, whether the law of England, on the subject of marriage, shall henceforth continue to be based on the principles of the Divine laws given in the book of Leviticus, and attested by the Canons of the Church, as hitherto, or whether that secure and unchanging basis shall now be given up, and in its stead be substituted, either the variable and uncertain instincts of corrupt human nature, or the fluctuating notions of a time-serving political expediency.

IV. But since the desire of change is, ostensibly at

least, limited at present to the particular instance of marriage with a wife's sister, it may be well to state more explicitly the grounds on which this degree is included in the Table.

1. The advocates of the change have sometimes made it appear as if the main argument on the side of their opponents rested on Levit. xviii. 18, "Neither shalt thou take a wife to her sister, to vex her, beside the other in her life-time :" and having shown, to their satisfaction, that this text need not prohibit marriage with the sister *after the death of the first wife*, they have affected to conceive that there was no other text which said a word upon the subject. Some indeed have taken a bolder flight, arguing from this text that Scripture positively *sanc-tioned* such marriages ; because a man was forbidden to take a wife to her sister "*during her life time*," therefore, (so it was inferred,) he was *permitted* to take her after the decease of the former. The answer to this argument is as old as the time of St. Basil : "If such an interpretation," he says, "be admitted, he, who wills, may take the sister even during the wife's life-time, for the same sophism will fit this case also. For it is written, he may say, 'Thou shalt not take a wife to her sister *to vex her*.' So, then, there is no prohibition against taking her, when there is nothing 'vexing' in it. Whereupon he, who is pleading for his passion, will decide that the temper of the sisters is such that

there is not any danger of 'vexing.' The reason, then, being done away for which he was prohibited from living with both at once, what is then to prevent his taking both sisters together? This is not written, we allow; but no more is the permission contended for in the other case expressed!¹ The two arguments are exactly parallel, and are about as conclusive as this, "The raven returned not again to the ark until the waters were dried up from the earth," *therefore* it returned after the waters were dried up; or, "Michal the daughter of Saul had no child unto the day of her death²;" *therefore* she had a child after her death. The truth is, this text [Levit. xviii. 18] neither forbids nor sanctions marriage with the sister of a *deceased* wife. It refers to another matter—it forbids one particular form of polygamy, to which the more carnally-minded Jews might have been the more disposed, from the example of the patriarch Jacob's marriage with Leah and Rachel; and the clause to "vex her" probably alludes to the strife which arose out of that marriage.

2. Setting aside, then, this text, as not applicable to the question, I appeal, first, to the general law laid down with so much solemnity in the 6th verse of Leviticus xviii. The prohibition there is direct and peremptory, "None of you shall approach to *any* that is near of kin:" "I am the Lord." Is, then, a

¹ Epistle to Diodorus.

² 2 Sam. vi. 23.

wife's sister amongst those that are "near of kin" to a man, or not? If she is, marriage with her is here forbidden, not simply by way of inference, but in express terms.

(1.) Now, before I have recourse to that rule of interpretation which I have already laid down for ascertaining what degrees are included in the nearness of kin here spoken of, I am anxious to call attention to the literal force of the scriptural expression. The best Hebrew scholars³ tell us that it is in the Original, literally, "None of you shall approach to *the flesh of his flesh*," which, they say, is rightly translated in our language, "any that is near of kin." Do we want to know, then, whether this expression applies to a man's wife's relations in the same degree as to his own? Let Holy Scripture interpret for us the meaning of its own words. It is usually allowed to be a good method to compare one passage with another. Let us use this method in the case before us. We find it declared elsewhere, in more places than one, of husband and wife, that "they twain shall be *one flesh*;" and again, that the wife is "bone of his bone, and *flesh of his flesh*."⁴ This is, in fact, the constant language of Scripture, in reference to the union formed between those whom God has joined together by the Divine institution of marriage. Now here we have the very same

³ See Commissioners' Report, Question 436.

⁴ See Gen. ii. 24; Matt. xix. 6; Eph. v. 31.

words used, “flesh of his flesh,” “one flesh.” It seems not possible, therefore, to doubt that the “nearness of kin” spoken of in this prohibition extends equally to those who are “near” by the bond of marriage, as to those who are near by the bond of blood. And St. Basil’s reasoning again seems irrefragable: “This prohibition,” he says, “includes this kind of ‘nearness’ also; for what can be ‘nearer’ to a man than his own wife; or rather than his own ‘flesh?’” So then, through the wife, her sister comes to be “near of kin” to the husband. For as he is not to take the “mother” of his wife, nor the “daughter⁵” of his wife, because neither can he take his own mother, nor his own daughter; so neither may he take the “sister” of his wife, any more than he may take his own “sister.” It does appear, therefore, sufficiently clear, that this expression, interpreted by its use in similar passages of Scripture, reaches to these degrees of affinity: and that as none would deny that a man’s own sister, and daughter, and mother are within the “nearness of kin” there intended;—as, moreover, the wife’s *mother* and *daughter* are found amongst the degrees *specifically* prohibited;—so the *sister* also of her who is made “one flesh” with him, must be esteemed as falling within the meaning of the same expression.

(2.) But let us next apply to this instance the

⁵ See Levit. xviii. 17.

rule which has been before shown to be necessary, in order to a right understanding of this chapter. We acknowledge that the sister of a deceased wife is not expressly enumerated amongst those with whom a man is forbidden to marry; but our position is, that there is one instance mentioned so *exactly parallel* to it, that the "nearness of kin" which is prohibited in one cannot but be held to exist in the other also. In verse 16, a man is forbidden to marry his "brother's wife;" or, in other words, a *woman* is there forbidden to marry her "*husband's brother*;" which is so exactly parallel to the case of a *man* marrying his "*wife's sister*," that it must be a very subtle refinement indeed which would establish any distinction between them. We should rather accept Bishop Jewel's judgment: "When God commands me, I shall not marry my brother's wife, it follows directly by the same, that He forbids me to marry my wife's sister; for between one man and two sisters, and one woman and two brothers, is like analogy."

3. The only objection which the advocates of the permission are able to allege against the entire conclusiveness of this text, and of the argument founded upon it, is grounded on a special exception which, for causes relating to the Jewish people, God afterwards saw fit to make to this prohibition of marriage with a brother's wife. The general rule is laid down, as we have seen, in Leviticus xviii. 16, amongst prohibitions which are professedly designed as well for the rest of mankind as for the Jews. The exception

is found in another book, in a passage quite independent of the former, and amongst precepts peculiar to the Levitical dispensation⁶; but in consequence of its being referred to in the New Testament, the argument founded on it has acquired an undue influence with many persons, from the exception being better known to them than the general law of Scripture, under which the excepted case fell. The particular exception was this; when a man died without children, his widow was forbidden to "marry without unto a stranger," but it was specially commanded that her husband's brother, or, failing him, the next of kin should marry her, and the eldest son of that marriage was to succeed in the name of the one who was dead, "*that his name might not be put out in Israel.*"

(1.) Now, first, it is manifest that the exception is based on reasons peculiar to the Jewish people; and this coincides with the manner and place in which the mention of it is introduced in Holy Scripture. Let those, then, who contend for the lawfulness of such a marriage amongst ourselves, on the authority of this exception, show what ground there is for thinking that those reasons, peculiar to the Levitical Law, exist under the Christian dispensation. Till this be shown, we must be content to think that the particular exception in this one in-

⁶ Deut. xxv. 5—10. See also Ruth iv. 5, &c. Matt. xxii. 24, &c.

stance only proves the general rule, and that, the specific exception having ceased with the Levitical dispensation, to which it was peculiar, the general prohibition holds universally.

(2.) But, even admitting, for the sake of argument, that this exception has all the force now that it ever had, it will but little avail those who are anxious to establish the lawfulness of these marriages at present. The excepted case, under the Levitical dispensation, is one in which it was,—*not permitted*, but specially *commanded*; not to a brother only, but to the nearest kinsman¹; not of every man, but only of one who died without children²; to marry the widow of the deceased, in order that the eldest son of this second marriage might preserve the name of the departed kinsman from being “put out” amongst the tribes and families of Israel. The advocates of the change in our laws desire to establish, not a special provision for a particular case, but a *general licence*, in all cases, to be left at the option of the parties themselves,—not for a man to marry his brother’s wife, but only for a man to marry his wife’s sister; and, so far from putting it on the same grounds on which the exception in the Jewish Law rested, they argue for the propriety

¹ See Ruth iv.

² There were other conditions also which limited the application of this law; such as the fact of the deceased brother having taken a son by adoption.—See Christian Remembrancer, for January, 1849, p. 149, note.

and great benefit of these marriages in those cases *especially* where the first sister *has left children*. It is difficult, therefore, to see how the Levitical exception, if taken as now in force to the very letter, can be considered as including in it such a licence as is now contended for.

(3.) An argument, however, is often raised on the ground of this exception, which is to this effect:— It is said that no Divine prohibition, which belongs to the *Moral Law*, can ever be dispensed with. Therefore, the fact of this exception having been made in one particular case, proves that the prohibition in Leviticus xviii. 16, at all events, belongs only to the Ceremonial or Judicial Law⁹, and not to the Moral Law; and consequently is not to be received as now necessarily binding on any Christian state or person. To this argument, I reply, that the principle is not true, that a Divine prohibition which may be dispensed with is necessarily not a part of the Moral Law. It is true that no *human* power has authority to dispense with a prohibition of this nature. But the same power which enjoined it, may dispense with it; and, as a fact, many other instances are recorded in Scripture, in which, by special commands to meet particular cases, God has made exceptions to that universal moral law, which He has established for all nations. Are not the sixth and eighth commandments part of the

⁹ See Report of Commissioners, p. 94, &c.

Moral Law?—and yet there have been instances in which God has dispensed even with these. Such were the cases in which the Israelites were commanded to spoil the Egyptians, and utterly to destroy the Canaanites and the Amalekites. On what principle can we justify the act of Jael, which is praised in Scripture¹?—the act of Samuel in slaying Agag², and other similar acts of the prophets and judges of Israel, but on the ground that these were special exceptions, warranted by express commands from God, which rendered the same acts right and praiseworthy in the doers of them, which, if done by us, or by them without such a warrant, would have been direct and sinful transgressions of God's Moral Law? Even so the Jews may have been, and were, commanded to marry, in certain special cases, the wife of a deceased brother, though the law of God, established for them, and for all nations, as a rule, forbade such marriages.

This exception, then, in Deut. xxv. 5, no more affords a proof that the general prohibitions, given before in Levit. xviii. 6. 16, are not parts of the Moral Law, and binding on all nations, (as by other arguments they have before been shown to be,) than the approval which is given in Scripture to the acts of Jael and Samuel in slaying Sisera and Agag, proves that the commandment, given in Exodus

¹ Judges iv. 18. 21; and v. 24.

² 1 Sam. xv. 32, 33.

xx. 13, "Thou shalt not kill," is not a part of the Moral Law.

(4.) There is one more argument connected with this peculiar precept of the Levitical dispensation, which it may be well to notice. It is said, that when the Sadducees alleged to our Saviour the case of the seven brethren³, who, in pursuance of this Levitical law, had all married the same woman, our Lord found no fault with these marriages; which, it is urged, He would have done, if He had esteemed them unlawful. The weakness of this argument will be sufficiently apparent, if my readers will refer to the passage in the Gospels to which it relates. First, it will be seen that the inquiry of the Sadducees in no degree turned upon the question of either the lawfulness or reasonableness of these marriages. It referred to the doctrine of *the resurrection of the dead*, to which they had found, as they thought, an objection. They merely appealed to this law as supplying them with a case in point; but, in fact, any instance of a second or third marriage would have furnished an equally apt illustration. It was not to be expected, therefore, that our Lord, in replying to their objection, should enter upon another question in no way concerned in it. But, secondly, the marriage of the seven brethren with the same woman, was expressly stated to have taken place in pur-

³ Matt. xxii. 24.



suance of that special precept which had been given to the Jewish people; "Master, Moses said, If a man die, having no children, his brother shall marry his wife, and raise up seed unto his brother. Now there were with us seven brethren," &c. Of course no one denies that such a marriage was lawful, or rather was obligatory, in such a case under the Levitical law. Whatever sanction, therefore, might be drawn from our Saviour's silence on this subject, must be confined to those marriages which fell within the scope of this peculiar precept.

I may now bring my observations to a close. It will be recollected that my sole aim has been to set forth, in as plain a manner as I could, the grounds on which it is contended that marriage within the degrees prohibited by our laws is forbidden in Scripture. This has now been done. I might indeed confirm the interpretation of Scripture here adopted by the testimony of the ancient Church, which, like our own, not only forbade these marriages, but forbade them on the ground that they were contrary to Scripture. I refrain, however, from entering upon this argument⁴, not because I think lightly of its weight, or of the certainty of such testimony being found in the records of the Church,

⁴ I would refer those who desire to see this argument worked out in detail, by one well able to do it justice, to a pamphlet, lately published, entitled, "Marriage with a deceased Wife's Sister prohibited by Holy Scripture, as understood by the Church for 1500 years." (J. H. Parker, Oxford and London.)

but partly because what I have written is chiefly designed for a class of readers by whom the value of such evidence could neither be duly tested nor perhaps estimated; and partly, because I venture to think that the argument from Scripture itself is sufficiently plain and convincing to satisfy most unprejudiced minds that these marriages are forbidden therein.

In like manner, I refrain from any discussion of the moral and social evils which, I firmly believe, must necessarily follow from a relaxation of our present law on this subject, because I am anxious that the question should not seem to rest on any lower grounds than those on which the Church and State of England have heretofore determined it. If these marriages are forbidden in Scripture, there is no room to enter into a calculation of their expediency. No human authority *can render* them lawful. Nor can any Christian state or person dare to *recognize* them *as lawful*, without involving itself in the guilt of an open contradiction to the law of God. On these principles, the entire legislation of this country, as well of the civil as of the ecclesiastical power, in reference to this subject, has hitherto proceeded. The *Church* of England, in the title to the Table of Degrees, and again in the 99th Canon, and the State of England, in the statutes⁵ relating to marriage, have alike

⁵ Vid. 25 Henry VIII. c. 22; 28 Henry VIII. c. 7; 32 Henry VIII. c. 38; and 5 and 6 Will. IV. c. 54. In these Statutes reference is continually made to "the degrees of mar-

appealed to the law of God in Holy Scripture as forbidding marriage within the degrees cited, and, expressly on this authority, have founded their own prohibitions. Even the Commissioners, in their recent Report, still assent to this, as being an acknowledged principle of our legislation. "If this opinion be admitted," (*viz.* "that these marriages are forbidden, expressly, or inferentially, by Scripture,") "*cadit quæstio.*"

Which, then, can we patiently consent to see set aside;—this long-established principle of legislation in England, or that still more ancient, and most incontrovertible interpretation of Holy Scripture by which these marriages have been proved to be forbidden in the law of God?

Is it to be now denied that a Christian state is under any obligation to recognize the law of God as the basis of its legislation? Or shall the force and meaning of Holy Scripture be so pared and explained away, through the wanton exercise of a

riage prohibited by God's laws," and "*the Levitical degrees.*" One extract may suffice. The Statute 32 Henry VIII. c. 38, enacts "that all and every such marriage as within this Church of England shall be contracted between lawful persons, (as by this Act we declare all persons to be lawful that be not *prohibited by God's law to marry,*) such marriages being contracted and solemnized in the face of the Church, shall be, by the authority of this present parliament, deemed lawful and indissoluble, and that no reservation or prohibition, God's laws except, shall trouble or impeach any marriage *without the Levitical degrees.*"

licentious private judgment, as to exempt from its prohibitions, marriages, which every sound rule of interpretation (consistency with the literal force of the same expressions in other places—the analogy collected from its other provisions—the consent of the ancient Church—of our own Church, and, up to this time, of our State also) agrees in including within them?

It is not to be believed that the British Parliament will accede to either of these views. But since we well know to our cost how much zeal and perseverance can effect, and as there is much of both on the side of the proposed alteration, it behoves all who would maintain the law on its ancient basis, to spare no effort in its behalf⁶.

After all, it is necessary to bear in mind that there are some things which Parliament cannot do: it cannot release the Church from obligation to the laws of God recorded in Scripture, nor can it take away the authority of the same laws over the consciences of individuals. Parliament has certainly not more authority to dispense with the law of God in respect of these marriages than the Pope has. It fell to the lot of our forefathers, at the time of the Reformation, to deny the claim of the latter to the possession of this power. It would be singular if the duty should devolve on us in these days to protest against an assertion of the same power, in the very

⁶ See Appendix, No. 3.

same instance of it, by the former. Again, Parliament cannot absolve the members of the Church from the just obedience which they owe, in things spiritual, to the authority of the Church to which they belong. So long, therefore, as the judgment of the Church respecting the prohibitions in Leviticus continues unaltered, and the canon now in force remains unrepealed, no licence merely of an Act of Parliament can render it lawful either for the Church to sanction, for her ministers to celebrate, or for any of her members to contract, such marriages. Even more; should such a marriage be at any time contracted, by licence of the civil power, between parties in communion with the Church, and be recognized by the State, as for all civil purposes lawful and binding, yet in the estimation of the Church, and of all faithful members of it, it must be accounted as being in the sight of God "incestuous and unlawful"; and if the Church be true to God and to herself, the parties must either be required to live apart from each other, or both be separated from the communion and privileges of the Church. These and many similar confusions and difficulties must arise, over and above the actual sin itself, if the State should afford a licence for marriages, which by the word of God are forbidden to be contracted, and treat those as lawful unions which in His sight are not marriages at all. If any thing more than a *mere*

¹ See 99th Canon.

licence were granted by the State; if (for instance) it were made compulsory on the ministers of the Church to celebrate such marriages when required, and so the spiritual discipline of the Church be interfered with, the result of such a course must be a *persecution of the clergy*.

But I forbear to dwell on the further consequences of any such unhappy measures. God forbid that we should ever know these evils by experience! And may He now avert from us that which is the source of all other evils—being itself the greatest of evils, as well to nations as to individuals,—the sin of setting aside His revealed laws, in order to take for our guidance some inventions of our own!

APPENDIX.

No. 1.

“A TABLE of KINDRED and AFFINITY, wherein who-
soever are related, are forbidden in Scripture, and our Laws,
to marry together.” (A.D. 1563.)

A Man may not marry his A Woman may not marry with her

1. Grandmother,	}	1. Grandfather,	}
2. Grandfather's Wife,		2. Grandmother's Husband,	
3. Wife's Grandmother.		3. Husband's Grandfather.	
4. Father's Sister,	}	4. Father's Brother,	}
5. Mother's Sister,		5. Mother's Brother,	
6. Father's Brother's Wife.		6. Father's Sister's Husband.	
7. Mother's Brother's Wife,	}	7. Mother's Sister's Husband,	}
8. Wife's Father's Sister,		8. Husband's Father's Brother,	
9. Wife's Mother's Sister.		9. Husband's Mother's Brother.	
10. Mother,	}	10. Father,	}
11. Step-Mother,		11. Step-Father,	
12. Wife's Mother.		12. Husband's Father.	
13. Daughter,	}	13. Son,	}
14. Wife's Daughter,		14. Husband's Son,	
15. Son's Wife.		15. Daughter's Husband.	
16. Sister,	}	16. Brother,	}
17. Wife's Sister,		17. Husband's Brother,	
18. Brother's Wife.		18. Sister's Husband.	

19. Son's Daughter,	19. Son's Son,
20. Daughter's Daughter,	20. Daughter's Son,
21. Son's Son's Wife.	21. Son's Daughter's Husband.
22. Daughter's Son's Wife,	22. Daughter's Daughter's Husband
23. Wife's Son's Daughter,	23. Husband's Son's Son,
24. Wife's Daughter's Daughter.	24. Husband's Daughter's Son.
25. Brother's Daughter,	25. Brother's Son,
26. Sister's Daughter,	26. Sister's Son,
27. Brother's Son's Wife.	27. Brother's Daughter's Husband.
28. Sister's Son's Wife,	28. Sister's Daughter's Husband,
29. Wife's Brother's Daughter,	29. Husband's Brother's Son,
30. Wife's Sister's Daughter.	30. Husband's Sister's Son.

“I. It is to be noted, That those persons which be in the direct line ascendent and descendent, cannot marry together, although they be never so far asunder in degree.”

“II. It is also to be noted, That Consanguinity and Affinity (letting and dissolving Matrimony) is contracted as well in them, and by them, which be of kindred by the one side, as in, and by, them which be of kindred by both sides.”

“III. Item, That, by the laws, Consanguinity and Affinity (letting and dissolving Matrimony) is contracted as well by unlawful company of man and woman, as by lawful marriage.”

“IV. Item, In contracting betwixt persons doubtful, which be not expressed in this Table, it is most sure, first to consult with men learned in the laws, to understand what is lawful, what is honest and expedient, before the finishing of their contracts.”

(Extracted from Archbishop Parker's “Admonitions,” which accompanied the Tables of Consanguinity and Affinity, 1563.)

No. 2.

Canon 99. (A.D. 1603.)

“No person shall marry within the degrees prohibited by the laws of God, and expressed in a Table set forth by authority, in

the year of our Lord God, 1563. And all marriages so made and contracted shall be adjudged incestuous and unlawful, and consequently shall be dissolved as void from the beginning, and the parties so married shall by course of law be separated. And the aforesaid Table shall be in every church publicly set up and fixed at the charge of the parish."

No. 3.

IT is earnestly hoped that Petitions to Parliament from almost every parish, and from the Clergy in every Rural Deanery, may be sent up in opposition to the proposed alteration of the marriage laws, in order to stop, if possible, any further agitation of the subject: a form, which has been already approved and signed by many Clergy, is subjoined.

To the Right Honourable, the Lords Spiritual and Temporal [or, To the Honourable, the Commons] of the United Kingdom of Great Britain and Ireland, in Parliament assembled.

The Petition of the undersigned Clergy of the Rural Deanery of —, in the Diocese of —, (or, The Petition of the undersigned Inhabitants of the Parish of —, in the County of —,)

Humbly showeth,

That your Petitioners have learnt with great sorrow that it is proposed to alter the present Statute Law of England, which prohibits the marriage of a man with the sister of his deceased wife.

That your Petitioners believe that these marriages are forbidden by the law of God in Holy Scripture; and in particular by the 6th verse of the 18th chapter of Leviticus, interpreted by the analogy collected from the provisions contained in the same chapter.

That your Petitioners conceive, that when God has prohibited

marriage between all persons who are near of kin to each other, and, as an instance of that nearness of kin, has forbidden (verse 16) marriage with a brother's wife, it must be necessarily concluded, that a woman is also forbidden by the same law to marry her sister's husband ; there being between a man and two sisters, and a woman and two brothers, the like analogy, and the same nearness of kin.

That this principle of interpretation cannot be set aside, without admitting that a man is at liberty, according to the law of God, to marry his own daughter or grandmother, since these not being specially enumerated, are forbidden by virtue of their analogy with degrees which are directly prohibited.

That your Petitioners firmly believe that this law is still binding on Christians, being part of the Moral Law of God : and they are the more confirmed in their adherence to it, by the consideration that the Christian dispensation, being designed, not to give more licence to men's passions, but rather to introduce a higher standard of purity, did not relax, but increase, the restrictions under which men had previously been bound in regard to marriage.

That the Table of Prohibited Degrees being founded on this principle, that all the degrees which are specifically prohibited in Leviticus xviii., and also those that are equal to them, are alike forbidden by the law of God, the relaxation of any one degree will surrender the principle on which the whole is based : And your Petitioners are persuaded that other relaxations will speedily be desired which can then be no longer refused on any principle ; so that it is impossible to foresee at what limits the flood of licentiousness will stop.

That your Petitioners are also deeply convinced that the relaxation contemplated would tend to lower the estimation in which the holy bond of matrimony is now held ; would narrow and restrain the affections at present entertained in all honour and purity by married persons towards the families of their wives ; and would inflict great and peculiar hardship both on sisters-in-law, and on widowers and their children, in all those

instances in which the parties, while still feeling themselves precluded by the Divine Law from marriage, could yet no longer live under one roof, as they now can, without exposing themselves to slander and suspicion.

That the affirmation by the Legislature of the proposal reprobated would, therefore, sacrifice the interests of your Petitioners, and of all who disapprove of these marriages (comprising, as is admitted, the great majority of the Clergy and Laity of the United Kingdom), to the unreasonable demands of a small minority, many of whom have already set the law at defiance, and voluntarily adopted a position, from the disrepute of which they now seek to be relieved.

That your Petitioners cannot regard the practice of foreign nations in this matter as affording any example fitting to be followed, since they have commonly heard, that amongst the inhabitants of no country has the sanctity of marriage been so highly regarded, and preserved so inviolate; the intercourse between relatives been so familiar and free, and yet so pure and unsuspected; and the habits of domestic life yielded so great an amount of comfort and happiness among all classes, as the people of this country have had happy experience of; which inestimable benefits your Petitioners attribute, in great measure, to the blessing of Almighty God, on the strict maintenance of the laws given in His Word, in regard to marriage.

Your Petitioners, therefore, while they earnestly desire that some stringent measures may be adopted to prevent the recurrence of illegal marriages, do humbly entreat your Right Honourable [or Honourable] House, that you will be pleased to refuse your sanction to any relaxation whatever of the law of marriage, as it relates to the prohibited degrees of consanguinity and affinity.

And your Petitioners will ever pray, &c.

THE END.

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